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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

MARC SOBEL)

Applicant for Certain Part 90 Authorizations)
in the Los Angeles Area and Requestor of)
of Certain Finder's Preferences)

MARC SOBEL AND MARC SOBEL)
d/b/a AIR WAVE COMMUNICATIONS)

Licensee of Certain Part 90 Stations in the)
Los Angeles Area)

WT DOCKET NO. 97-56

To: The Commission

MOTION FOR LEAVE TO FILE SUPPLEMENTS

Marc D. Sobel ("Sobel") hereby requests leave to submit the supplements previously offered in the above-captioned proceeding, in support whereof, the following is respectfully shown:

1. Sobel filed a *Supplement to Petition for Reconsideration* ("RFI Supplement") on September 17, 2002, and a *Second Supplement to Petition for Reconsideration* ("Second RFI Supplement") on March 5, 2003. On March 25, 2003, the Enforcement Bureau its *Motion to Strike Supplements to Petition for Reconsideration* ("Motion to Strike"). While the Bureau's motion is untimely¹ and without merit, Sobel nevertheless now formally seeks leave to file the two supplements and respectfully asks that they be received and given consideration by the Commission in its resolution of this matter.

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¹ The *Motion to Strike* was tendered a more than six months after the *RFI Supplement* and nearly three weeks after the *Second RFI Supplement*.

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2. The Bureau complains that the rules do “not contemplate the filing of supplements,” and characterizes Sobel’s supplements as “unauthorized pleadings.” Motion to Strike at ¶ 2. This is a curious objection, because neither do the rules anywhere contemplate motions to strike pleadings, particularly not when the moving party has voluntarily declined to interject a timely opposition on either procedural or substantive grounds. Moreover, the underlying pleading at issue here, Sobel’s February 27, 1998, *Revised Request for Inquiry and Investigation* (“*RFI*”), is itself a pleading that is not expressly contemplated or authorized by specific Commission regulation. In filing the pleading, Sobel expressly invoked Section 1.41 of the Commission’s Rules providing for informal requests for Commission action, 47 C.F.R. § 1.41, as well as his First Amendment Constitutional right to petition the government, U.S. CONST. amend. I. It is absurd to suggest that supplements presenting additional relevant information are not also within the ambit of those same authorities.

3. This is not to suggest that the Commission has not right or ability to set appropriate procedural limits in the interest of administrative expedience and efficiency. But Sobel’s supplements are not mere repetitive presentations. In the *RFI Supplement*, Sobel presented specific examples of ongoing unlawfully discriminatory treatment occurring since the time of the original filing and continuing beyond the submission of the pending reconsideration petition. Similarly, the Second *RFI Supplement* documents the continuation of these abuses during the ensuing six months, and also presents new, current examples. The public interest demands that the Commission give full consideration to new and continuing instances of the unlawful discriminatory and preferential treatment, and the acceptance of supplemental pleadings to present such information to the Commission is therefore proper.

4. Although the Bureau voluntarily chose not to oppose the supplements on their merits, in the Motion to Strike it attempts to refute Sobel's substantive position by pointing to a eleven instances in which the staff of the Wireless Telecommunications Bureau has, since January 2002, acted on Kay non-hearing matters. Motion to Strike at p. 3, n.3. But in none of the eleven matters referenced, nor elsewhere, has the Commission or its staff taken action on the specific matters presented in the *RFI Supplement* or the *Second RFI Supplement*. Thus, the Bureau's argument refutes neither the merits of the supplements nor their propriety.

WHEREFORE, Marc D. Sobel, respectfully prays for leave to submit, acceptance of, and full Commission consideration of his *Supplement to Petition for Reconsideration* (September 17, 2002) and his *Second Supplement to Petition for Reconsideration* (March 5, 2003).

Respectfully submitted May 12, 2002:

Marc D. Sobel

By: 

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Certificate of Service

I, Robert J. Keller, counsel for Marc D. Sobel, hereby certify that on this 12th day of May, 2003, I caused copies of the foregoing **LIMITED PETITION FOR RECONSIDERATION** to be served, by U.S. mail, to the following:

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